

25334A

### REMARKS

The Applicant has carefully reviewed and considered the final Office Action mailed December 5, 2005. In response, Applicant notes with appreciation the withdrawal of the anticipation rejections and the finding that all claims are indeed directed to novel inventions, as contended. As to the outstanding rejections based on obviousness, Applicant respectfully disagrees with the Examiner's findings and requests favorable reconsideration in light of the following remarks.

In the final action to which this document is responsive, the Examiner maintains her position that claims 1 and 3-25 are rendered obvious by EP 0465203 A1 to Nielsen et al. when considered in combination with DE 19804418 A1 further evidenced by Weinle et al. (U.S. 4,840,832) and Sandstrom et al. (U.S. 6,379,497). As previously amended, claim 1 (against which only Nielsen et al. and DE '418 are applied) specifically requires a plurality of structural fibers and a plurality of bicomponent fibers coupled to the plurality of structural fibers. Each of the plurality of bicomponent fibers includes a core substantially surrounded by an outer polymer annulus. The melting point of the outer polymer annulus is significantly lower than the core and the plurality of structural fibers. The claim further requires that a portion of the plurality of structural fibers comprises one or more irregularly shaped fibers, and that the one or more irregularly shaped fibers have a melting point significantly higher than the outer polymer annulus.

Nielsen et al. refers to a wet laid web containing (a) a bicomponent fiber having a polyester or polyamide fiber component and a linear low-density polyethylene component and (b) a matrix fiber made, for example,

25334A

from glass fibers or polyester fibers. As again acknowledged by the Examiner in the final Office Action, Nielsen et al. is "... silent to the use of irregular shaped fibers." Thus, it certainly cannot teach that the irregularly shaped fibers have a melting point significantly higher than an outer polymer annulus of the bicomponent fibers to which it is attached, as required by claim 1.

To allegedly address this shortcoming of Nielsen et al., the Examiner cites DE '418. Unlike Nielsen et al., the DE '418 reference relates to a padded underlay for use with decorative and/or cladding material. Thus, Applicant's primary basis for contesting the original rejection based on this reference is the fact that a skilled artisan would not look to the padded underlay art for solutions in forming the admittedly novel surface veil being claimed.

In the final Action, the Examiner disagrees with this contention, citing various features of the padding disclosed in DE '418, such as "surface smoothness" and "good softness." However, the Examiner's position overlooks the primary thrust of Applicant's argument, which is that a skilled artisan would not be led to the teachings of DE '418 in the first instance because it is from a different field of endeavor. Despite the identification of features in DE '418 that might be desirable for a surface veil, the Examiner does not in any way explain why a skilled artisan, wanting to solve the problems addressed by the present inventor (including to provide a surfacing veil that "offers desired surface appearance"), would look to the padded underlay art much less this reference for guidance. By essentially relying on the guidance provided by DE '418 without any finding that the reference is within the same field of endeavor or reasonably pertinent to the problem to be solved by the

25334A

inventors, the Examiner has ostensibly put the "obviousness" cart before the horse of "non-analogous" art.<sup>1</sup> Since such a reverse analysis is clearly improper under the case decisions, and results in a rejection that is invariably fraught with improper hindsight analysis, reconsideration of the final rejection based on the combination of Nielsen et al. and DE '418 is respectfully requested.

Regardless of whether the Examiner agrees with the Applicant's argument regarding the reasons these references are not properly combinable, it must be acknowledged that no substantial evidence whatsoever in the record establishes that the irregular fibers disclosed in the DE '418 reference have a melting point significantly higher than the outer polymer annulus of the associated bicomponent fibers. Indeed, while the specific melting point of the "mantle" of the bicomponent fibers is mentioned in the Abstract (approx. 140°C), a full review of the translation provided by the Examiner reveals that DE '418 fails to mention the melting point of the fibers allegedly qualifying as the claimed "irregular fibers."

As noted above, the Examiner admits that Nielsen et al. discloses no such "irregular" fibers. This means that it cannot possibly describe the claimed melting point condition. Consequently, even if these references are properly combinable, which remains in dispute, they do not meet each and every limitation of the claims at issue. This means that a *prima facie*

---

<sup>1</sup> In re Bigio, 72 USPQ2d 1209 (CA FC 2004) ("Two separate tests define the scope of analogous prior art (1) whether the art is from the same field of endeavor, regardless of the problem addressed and, (2) if the reference is not within the field of the inventor's endeavor, whether the reference still is reasonably pertinent to the particular problem with which the inventor is involved.").

25334A

case of obviousness is lacking in the present record.<sup>2</sup> Accordingly, reconsideration of the final rejection of claim 1 based solely on the combination of Nielsen et al. and DE '418 is therefore respectfully requested.

With regard to claim 8, the additional reliance on U.S. Patent 6,379,497 to Sandstrom fails to save the rejection of claim 1, or to support the lack of patentability of the corresponding invention. More particularly, claim 8 reads on a surfacing veil further comprising about 5 to 20 weight percent microspheres. Nielsen et al. clearly fails to teach or suggest the concept of incorporating microspheres into a wet laid web. Microspheres are also not mentioned anywhere in DE '418, either. While Sandstrom et al. refers to microspheres, it is limited solely to microsphere use in cellulosic paperboard products.

Accordingly, none of the cited references teach or suggest the use of microspheres in a surfacing veil as set forth in present claim 8. Further, none of the cited references in any way suggest to one skilled in the art that microspheres could be utilized in a surfacing veil. Since microspheres expand upon heating, absent teachings to the contrary, one skilled in the art might expect microspheres to expand upon molding and print through the surfacing veil thereby producing an unusable product. There simply is no motivation in the cited references to lead one skilled in the art to utilize microspheres in a surfacing veil in the manner set forth in claim 8. Accordingly, this claim should be allowed.

---

<sup>2</sup> See MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.").

25334A

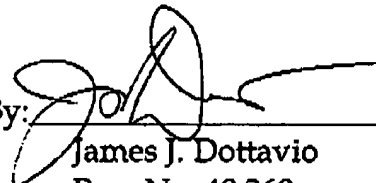
Claims 19 and 23 both refer to a surfacing veil wherein the outer polymer annulus comprises a low melt copolymer polypropylene. As acknowledged by the Examiner, the primary reference to Nielsen et al. fails to teach this concept. Similarly, polypropylene is not mentioned anywhere in DE '418. As a result the Examiner relies upon U.S. Patent 4,840,832 to Weinle et al. for this teaching.

However, Weinle et al. does not relate to surfacing veils. Therefore, it does not address the shortcomings noted above with respect to the failure of the primary reference to Nielsen et al. and the secondary DE '418 patent to teach or suggest the use of irregularly shaped fibers in surfacing veils. Accordingly, the cited references, even when considered in combination, fail to provide a proper basis for the rejection of claims 19 and 23 which should be allowed.

25334A

In summary, all the pending claims patentably distinguish over the prior art and should be formally allowed. Upon careful review and reconsideration, it is believed the Examiner will agree with this proposition. Accordingly, withdrawal of the final rejections and the early issuance of a formal Notice of Allowance is earnestly solicited to avoid the need for bringing this matter before the Board. The Commissioner is hereby authorized to charge any fees required to Deposit Account No. 50-0568 in connection with this Amendment.

Respectfully submitted,

By:   
James J. Dottavio  
Reg. No. 40,360

Owens Corning  
Patent Dept. Bldg. 11  
2790 Columbus Road  
Granville, Ohio 43023  
(740) 321-7167

Dated: 21 Feb 2006